

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

April 14, 2005

DIVISION ONE

B176485 People (Not for Publication)
v.
Douglas C. Ramirez

The judgment is affirmed.

Mallano, Acting P.J.

I concur: Suzukawa, J. (Assigned)
I concur in the judgment only: Vogel (Miriam A.), J.

DIVISION FOUR

B172141 Love et al.
v.
County of Los Angeles et al.

Filed order denying petition for rehearing.

DIVISION FIVE

B173801 People (Not for Publication)
v.
Michael Collins

The judgment is affirmed.

Kriegler, J.

I concur:	Armstrong, Acting P.J.
I concur and dissent:	Mosk, J. (opinion)

April 14, 2005 (Continued)

DIVISION FIVE (Continued)

B178950 People (Not for Publication)
v.
Richard Glover

The judgment is affirmed.

Kriegler, J.

We concur: Turner, P.J.
 Armstrong, J.

B175601 People (Not for Publication)
v.
Rudy Jaquez

The judgment is affirmed.

Mosk, J.

We concur: Turner, P.J.
 Kriegler, J.

B175297 People
v.
Tom Smith

Filed order denying petition for rehearing.

DIVISION SIX

Court convened at 1:30 P.M.

Present: Gilbert, P.J., Yegan, J., Coffee, J., Perren, J. P. McGill, Chief Deputy Clerk and G. Bents, Senior Deputy Clerk.

DIVISION SIX (Continued)

Each of the following:

B174586 People v. Vargas
B176191 People v. Monroy

Argument continued to May, 2005.

Each of the following:

B172145 People v. Alfaro
B172325 People v. Jones & Moor
B173147 People v. Moody
B173395 People v. Aldape
B174012 People v. Watkins
B174581 People v. Onofre
B174673 People v. Rodriguez
B175103 People v. Wright
B175352 People v. Pyle
B175603 People v. Porter
B176157 People v. Williams
B176431 People v. Johnson
B176482 People v. Gonzalez
B177884 People v. Rogers

Argument waived, cause submitted.

B174821 People
 v.
 Waller

Merits:

Argued by Joanna McKim for appellant via video conference and argument previously waived by respondent. Cause submitted.

April 14, 2005 (Continued)

DIVISION SIX (Continued)

B174580 People
 v.
 Davis

Merits:

Argued by Richard C. Gilman for appellant and by Kenneth N. Sokoler, Deputy Attorney General, for respondent. Cause submitted.

Yegan, J. left the bench.

B173714 People
 v.
 Cummings & Cummings

Merits:

Argued by Diane Berley for appellant April Cummings; by Richard Eric Holly for appellant Irene Cummings; and by Kenneth N. Sokoler, Deputy Attorney General for respondent. Cause submitted.

Court recessed at 2:15 P.M.

Court reconvened at 3:30 P.M.

Present: Gilbert, P.J., Yegan, J., Perren, J. and G. Bents, Senior Deputy Clerk.

B173939 People
 v.
 Moreno

Merits:

Argued by Suzan Hier for appellant and by Lauren D. Dana, Deputy Attorney General, for respondent. Cause submitted.

Court adjourned at 4:00 P.M.

April 14, 2005 (Continued)

DIVISION SIX (Continued)

B176810 City of Santa Barbara
 v.
 Santa Barbara Superior Ct.
 Janeway, Terral & Maureen

Filed order vacating submission order of February 10, 2005. Associate Justice Kenneth R. Yegan recuses himself. Cause to be re-calendared for argument on May 11, 2005 at 9:00 a.m.

DIVISION SEVEN

Court convened at 9:00 a.m.

Present: Perluss, P.J., Johnson, J., Woods, J., Zelon, J. and Eva McClintock, Deputy Clerk.

Each of the following:

B169492 People v. Lousky
B169863 People v. Fykes
B171051 People v. Vega et al.,
B171931 People v. Bradley
B172475 People v. Anderson
B175290 People v. Jimenez

Argument waived, cause submitted.

B174887 People
 v.
 Seymour

Argument having been previously waived by stipulation of the parties, the cause is not submitted. The court will request additional briefing regarding the Blakely sentencing issue.

DIVISION SEVEN (Continued)

B171769 People
 v.
 Wilson

Merits:

Argued by Christine Shaver for appellant and by Yun Lee, Deputy Attorney General for respondent. Cause submitted.

B177493 Los Angeles County, D.C.S.
 v.
 Eden F.

Merits:

Argued by Craig Arthur for appellant and by Kim Nemoy, Deputy County Counsel for respondent. Cause submitted.

B170577 People
 v.
 Rodriguez

Merits:

Argued by Matthew Alger for appellant and by Juliet Swoboda, Deputy Attorney General for respondent. Appellant Vasquez waived oral argument. Cause submitted.

B174615 People
 v.
 Williams

Merits:

Argued by Kevin Sheehy for appellant and by Robert Henry, Deputy Attorney General for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B162636 People
 v.
 Mendoza

Merits:

Argued by Richard Levy, Peter Gold and Cheryl Renard for appellants and by Richard Breen, Deputy Attorney General for respondent. Bruce Karey appeared on order to show cause re sanctions. Cause submitted.

B173722 In re Contreras
 On
 Habeas Corpus

Merits:

Argued by Cheryl Renard for petitioner and by Richard Breen, Deputy Attorney General for respondent. Cause submitted.

B165831 Kaye
 v.
 Hall

Merits:

Argued by Thomas Hall appellant in propria persona and by Shawn Kaye respondent in propria persona. Cause submitted.

B169865 Heggnes et al.,
 v.
 Mullen, et al.
 2 Amigos, et al.

Merits:

Argued by Robert Risely for appellants and by Joseph McCarty and Judy Galido for respondents. Cause submitted.

April 14, 2005 (Continued)

DIVISION SEVEN (Continued)

B164859 DeSantis
 v.
 California Dept. of Transportation

Merits:
Argued by Michael Berger for appellant and by Jacqueline Rosen for
respondent. Cause submitted.

Court recessed at 12:32 p.m.

Court reconvened at 2:00 p.m.

Present: Perluss, P.J., Johnson, J., Woods, J., Zelon, J. and Eva McClintock, Deputy
Clerk.

B171579 Moradi
 v.
 Netty

Merits:
Argued by Amir Salehi for appellant and by Vicki Roberts for respondent.
Cause submitted.

B170889 Alameda Corridor-East
 v.
 Allyn

Merits:
Argued by Bruce Gridley for appellant and by Dean Dennis for respondent.
Cause submitted.

April 14, 2005 (Continued)

DIVISION SEVEN (Continued)

B171080 Lutheran Church Missouri Synod Foundation
v.
Wood et al.,

Merits:
Argued by Eric Oto for appellants and by Sharon Hotchkiss for respondent.
Cause submitted.

B171893 Johnson
v.
Costco Wholesale Corp.

Merits:
Argued by Michael Ainbinder for appellant and by Jeffrey Miller for respondent. Cause submitted.

Court adjourned at 3:10 p.m.

DIVISION EIGHT

B171170 People (Not for Publication)
v.
Dara Yin

The judgment is hereby modified by (1) striking the 25-year-to-life enhancement imposed on count 1 under authority of section 12022.53, (2) striking all references to sentencing under section 186.22, subdivision (b)(5) in regard to counts 2 and 3, and (3) striking all references to a restitution fine and parole revocation fine. The trial court is ordered to issue an amended abstract of judgment embodying these modifications. In all other respects, the judgment is affirmed.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.

DIVISION EIGHT (Continued)

B175805 JDI Communications. Inc. (Not for Publication)
 v.
 Deborah Ruth Talbot

The judgment entered is reversed. The matter is remanded for the trial court to conduct further proceedings in conjunction with the section 664.6 motion. If the trial court finds that Talbot did not make the \$5,000 payment on or before December 31, 2004, it shall reinstate the judgment for \$50,000 less any amounts Talbot actually paid. If the trial court finds that Talbot made the \$5,000 payment it shall enter judgment in the amount of \$35,000 less any amounts actually paid in addition to the \$5,000. Because JDI is essentially the prevailing party, and only the amount of the recovery remains to be decided, we depart from the normal rule and award costs to JDI in the interests of justice. (Cal. Rules of Court, rule 26(a); *Ramirez v. St. Paul Fire & Marine Ins. Co.* (1995) 35 Cal.App.4th 473, 478.)

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

B170330 People (Not for Publication)
 v.
 Jesus Xavier Acosta

The judgment is reversed as to the sentence only, and the matter remanded to the trial court to conduct a new sentence determination. In all other respects, the judgment is affirmed.

Rubin, J.

We concur: Cooper, P.J.
 Boland, J.

B175112 People
 v.
 Usher

Filed order denying petition for rehearing.

April 14, 2005 (Continued)

DIVISION EIGHT (Continued)

B175887 People (Not for Publication)
v.
Jeffrey Browne, et al.

The judgment is affirmed.

Flier, J.

We concur: Rubin, Acting P.J.
Boland, J.

B172685 County of Los Angeles (Not for Publication)
v.
Sharky's Bail Bonds

The judgment is affirmed. Respondent(s) to recover costs.

Rubin, Acting P.J.

We concur: Boland, J.
Flier, J.

B171456 People
v.
Gonzalez and Martinez

Filed order modifying opinion. Petition for rehearing is denied. (Change in judgment)